Claim 1 has been amended to recite "wherein the *gro-1* gene comprises the nucleotide sequence set forth in SEQ ID NO:3 or any functional fragment thereof", as suggested by the Examiner.

Reconsideration of this rejection is therefore respectfully requested.

Applicant respectfully requests reconsideration of the requirement for restriction, or in the alternative, modification of the restriction requirement to allow prosecution of more than one group of claims designated by the Examiner in the present application, for the reasons provided as follows.

Under 35 U.S.C. § 121, "two or more independent and distinct inventions... in one application may... be restricted to one of the inventions". Inventions are "independent" if "there is no disclosed relationship between the two or more subjects disclosed" (MPEP § 802.01). The term "distinct" means that "two or more subjects as disclosed are related... but are capable of separate manufacture, use or sale as claimed, AND ARE PATENTABLE OVER EACH OTHER". (MPEP § 802.01) (emphasis in original). However, even with patentable distinct inventions, restriction is not required unless one of the following reasons appear (MPEP § 808.02).

1. Separate classification;
2. Separate status in the art; or
3. Different field of search.

Further, under Patent Office examining procedures, "If the search and examination of an entire Application can be made without serious burden, the Examiner must examine it on the merits, even though it includes claims to distinct or independent inventions" (MPEP § 803, Rev. 8, May 1988) (emphasis added).

Applicants respectfully submit that the groups designated by the Examiner fail to define structures and methods so distinct as to warrant separate examination and search. The present claims represent a web of knowledge and continuity of effort that

merits examination in a single application. Accordingly, each of the claim groups relates to the identification of *gro-1* gene and its implication in the control of a central physiological clock. The results of the present application and the way in which all the claims fit together are similar to when a human disease gene is identified by molecular cloning. For example, the molecular basis for the defect of cystic fibrosis has been discovered with the identification of the mutated gene underlying this disease. The gene was shown to encode a protein that affects a chloride ionic conductance. This discovery has then allowed the creation of medications affecting epithelia.

Thus, Applicants submit that every claim of the application is made directly possible by the identification of *gro-1* gene and his function and the search and examination of the entire application can be made without serious burden, and therefore the Examiner must examine all of the claims of the application on the merits.

In view of the above, withdrawal of the requirement for the same is requested and an early action on the merits is courteously solicited.

Respectfully submitted,

Date: Dec. 6, 2001

David A. Jackson
Attorney for Applicants
Registration No. 26,742

KLAUBER & JACKSON
411 Hackensack Avenue
Hackensack, NJ 07601
(201) 487-5800

VERSION WITH MARKINGS TO SHOW CHANGES MADE TO THE CLAIMS

Claim 1 has been amended as follows:

1. (Amended) A gro-1 gene which has a function at the level of cellular physiology involved in developmental rate and longevity, wherein gro-1 mutations cause a longer life and an altered cellular metabolism relative to the wild-type, wherein the gro-1 gene ~~has the identifying characteristics of~~ comprises the nucleotide sequence set forth in SEQ ID NO:3 or any functional fragment thereof.